

EXHIBIT “7”

AFFIDAVIT OF JAN FUNDERBURK

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

LOUIE ALEXANDER,

Plaintiff,

-vs-

OPELIKA CITY BOARD OF EDUCATION,

Defendant.

Case No. 3:06-cv-498-WKW

AFFIDAVIT OF JAN FUNDERBURK

Before me, the undersigned authority, in and for said county and state, personally appeared Jan Funderburk, who being known to me and being first duly sworn, deposes and says under oath as follows:

1. My name is Jan Funderburk. I am a white male over the age of nineteen and I have personal knowledge of the matters set forth herein.
2. During Louie Alexander's employment with Opelika City Schools I was the Assistant Principal at Opelika High School and the administrator who oversaw the maintenance department. Joe Wingo was the maintenance supervisor.
3. During Mr. Alexander's employment, Mr. Wingo came to me because of problems he had with Mr. Alexander being confrontational. Mr. Alexander was confrontation with co-workers and sometimes at meetings. I talked to Mr. Alexander about some of these issues.
4. On at least one occasion the custodians were told to go home because of an altercation involving Mr. Alexander. We then began to learn that there were other

problems with Mr. Alexander. Although the custodians all help each other when preparing for school events, Mr. Alexander started leaving when he felt he had done his part. He was not pulling his weight with his assigned tasks. Eventually the situation escalated with a verbal altercation between Mr. Alexander and another custodian potential termination was discussed.

5. I was requested to conduct an investigation about Mr. Alexander's work performance and relationship with the other custodians. I created a written document with the information that I learned and provided it to the then Assistant Superintendent Dr. Mark Neighbors. That documentation is attached as Exhibit "A".

6. At no time during the problems with Mr. Alexander did he complain that he was being treated differently because of his race. At no time during the problems did Mr. Alexander relate to me that anyone referred to him as "boy." In fact, because Mr. Alexander's problems were not specific to any particular custodian, I was completely unaware that race had anything to do with what was happening.

7. I received information from both the black and white custodians regarding Mr. Alexander. At no time did any one indicate to me that there was a racial harassment situation or state that they were being treated differently because of their race.

8. If anyone would have made a complaint implicating racial harassment or discrimination, it would have been investigated and dealt with immediately. Because no such complaint was made, I never communicated to the Principal or Dr. Neighbors that there was a racial discrimination or harassment problem.

Further affiant saith not.


JAN FUNDERBURK

STATE OF ALABAMA)
COUNTY OF LEE)

Before me the undersigned Notary Public in and for State and County aforesaid, personally appeared **JAN FUNDERBURK**, who is personally known to me and who, being by me first duly sworn, doth depose and say that he signed the above affidavit to the best of his knowledge, information and belief and with full understanding of its effect.


NOTARY PUBLIC

MY COMMISSION EXPIRES JAN. 30, 2010

My Commission Expires: _____

(SEAL)

EXHIBIT “A”

**Information Resulting from
Funderburk’s Interviews with
Alexander’s Co-Workers**



OPELIKA HIGH SCHOOL

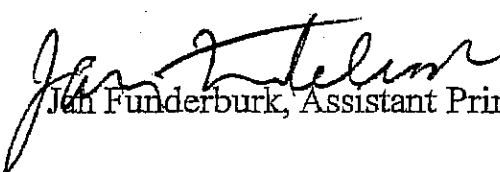
LAFAYETTE PARKWAY

PHONE (334) 745-9715

OPELIKA, ALABAMA 36801-3199

MEMORANDUM:

TO: Dr. Mark Neighbors, Assistant Superintendent

FROM:  Jan Funderburk, Assistant Principal Opelika High School

SUBJECT: Documentation on Louie Alexander

DATE: November 18, 2005

Please find enclosed all the documentation I have concerning Louie Alexander and his employment at Opelika High School.

If there are any questions or concerns please advise me.

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I conducted interviews with all of the maintenance staff on Thursday September 29, 2005 and on Friday September 30, 2005 concerning Louie Alexander and his behavior at work. I also talked with Mr. Jason Bryant, assistant principal, about an incident that happened on August 16, 2005. During the interviews the following items came to light.

August 17, 2005

Jan Funderburk (White male, assistant principal) and Jason Bryant (African-American male, assistant principal, Opelika High School) present.

- On August 16, 2005, Louie pointed out to Mr. Bryant that cracker crumbs had been left on the floor of mainstreet. Louie stated that Ms. Moore, whose week it was to clean mainstreet, was not doing her job.
- After pointing out the crumbs to Mr. Bryant Louie walked off without cleaning up the crumbs eventhough employees know that they are responsible for the entire campus when they see something that needs to be done.

September 29, 2005:

Jan Funderburk and Doris Holland (African-American female) present:

- Doris stated to me that "Louie was crazy" and she was afraid of him.

September 29, 2005:

Jan Funderburk and Etta Torbert (African-American female) present:

- Etta said she witnessed the verbal confrontation between Louie and James Chance on September 28, and that she worried about the night crew.

September 29, 2005:

Jan Funderburk and Willie Giles (African-American male) present:

- Willie stated that Louie was not putting the correct times down on the time sheets when working at the stadium on Saturdays.
- Willie also witnessed the verbal confrontation between Louie and James on September 28.

September 29, 2005:

Jan Funderburk and Ken Mangram (White male) present:

- Ken informed me that Louie was not putting down the correct times on the time sheets when working at the stadium on Saturdays.

September 29, 2005:

Jan Funderburk and Debra Morgan (African-American female) present:

- Debra stated that Louie was not putting down the correct times on the time sheets when working at the stadium on Saturdays.
- She stated that she felt threatened by him.
- Debra stated that she had seen Louie going through the files in the office of the maintenance supervisor and had also seen him coming out of classrooms in the building that were not part of his area of responsibility.

September 29, 2005:

Jan Funderburk and Mae Moore (African-American female) present:

- Ms. Moore stated that Louie did not help put down tables or help take them up so the football team could eat after a practice session.

September 29, 2005:

Jan Funderburk and James Chance (White male) present:

- James stated that he had seen Louie coming out of rooms that were not part of his responsibility.
- Told me that the times Louie put down on time sheets for working at the stadium on Saturdays were not correct.
- Stated that Louie was on his cell phone a good amount of time during his work night when he should be carrying out his responsibilities.
- James stated that he and Louie had a verbal confrontation over putting down tables for the football team to eat. Louie shoved a chair back from the table and told James that he was not his boss.
- James said that Louie told him to call him "boy" and he would take care of him.

September 29, 2005:

Jan Funderburk and Jim McManus (White male) present:

- Jim stated that Louie would not help put down tables or take them up for the football team to eat after practice.
- Jim told me that Louie had said to him that he would "whip his butt."
- Jim stated that Louie had placed a radio on the table in the maintenance work area and turned up the volume. He became upset when the station stopped playing music and stated to the employees "don't touch his radio."

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- Jim also stated the time Louie was putting down on the time sheets for working at the stadium on Saturdays was not correct.

September 30, 2005:

Jan Funderburk and Sam Pettis (African-American Male) present:

- Sam stated that he had not personally observed any problems with Louie. He had only heard rumors and what other employees were saying.

September 30, 2005:

Jan Funderburk and Henry Avery (African-American male) present:

- Henry said that he had talked to Louie on several occasions about problems at work.

September 30, 2005:

Jan Funderburk and Joe Wingo (White male, maintenance supervisor at Opelika High School) present:

- Joe provided additional information on Louie. He informed me that on September 21, 2005 he had returned to the campus and observed Louie talking to a former employee at her car. He returned later noting that Louie had been talking to her for some twenty-three minutes at a time that was not break or dinner time.
- Joe informed me that on September 26, 2005 he returned to campus and again observed Louie talking to a former employee in the parking lot. Returning to campus sometime later he noted that some forty minutes had passed and Louie was still talking to her at a time that was not break or dinner time.
- Joe gave me a note left by Debra Morgan of the night crew informing him that Louie left work at 9:25 pm on September 29, 2005. The night crew is to work until 10:00 pm.